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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,915	07/16/2003	Hans-Georg Klein	23907US	2568

7590

11/22/2005

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Suite 473  
866 United Nations Plaza  
New York, NY 10017

EXAMINER
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GOFF II, JOHN L

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/621,915

Applicant(s)

KLEIN, HANS-GEORG

Examiner

John L. Goff

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 10/000,900.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to the amendment filed on 9/16/05. The previous claim objections have been overcome.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 21 requires the hotmelt adhesive extruded at a weight of less than 20 g/m<sup>2</sup>. However, the specification only discloses a weight of 5 to 100 g/m<sup>2</sup> such that 0 to 4 g/m<sup>2</sup> cannot be included in the range of claim 21 (Page 4 of the specification, second to last line). It is suggested applicant delete "less than approximately 20 grams pre square meter" from the claim and insert therein - - 5 to 20 grams per square meter - - to overcome the rejection.

***Claim Rejections - 35 USC § 102***

5. Claims 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al. (U.S. Patent Application Publication 2002/0071944).

Gardner et al. disclose a method of producing a breathable roofing underlayment comprising providing a base nonwoven of polypropylene, polyethylene, polyester, etc., slot-extruding a hotmelt adhesive film of ethylene vinyl acetate having a basis weight of about 10 to about 80 g/m<sup>2</sup> directly onto a surface of the nonwoven, and passing the nonwoven and extruded film through a pair of nip rolls wherein one of the rolls has an embossing structure and the roll nip applies pressure to both the nonwoven and extruded film such that inherently the melt extruded film penetrates the voids of the nonwoven (Paragraphs 2, 3, 13, 20, 22-25, 28, 32, 37-39, 42, and 61). Gardener et al. further teach optionally including a second nonwoven on an opposite surface of the extruded film and including a reinforcing grid next to the extruded film to increase the durability of the composite (Paragraph 25).

***Claim Rejections - 35 USC § 103***

6. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardener et al. in view of Lou (U.S. Patent 4,684,568).

Gardener et al. is described in full detail above. In the event it is shown Gardener et al. does not specifically teach 5 to 20 g/m<sup>2</sup> the following rejection applies. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the basis weight for the extruded film taught by Gardner et al. 5 to 15 g/m<sup>2</sup> a well known basis weight for

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extruded films of the same type to form vapor-permeable liquid-impermeable nonwovens as shown for example by Lou.

Lou discloses a continuous process for producing a breathable roofing underlayment that is vapor-permeable liquid-impermeable comprising providing a base nonwoven, slot-extruding a hotmelt adhesive film having a basis weight of about 5 to about 15 g/m<sup>2</sup> directly onto a surface of the base nonwoven, and passing the base nonwoven and extruded film through a pair of nip rolls, the roll nip applying pressure to both the base nonwoven and melt extruded film such that inherently the extruded film penetrates the voids of the nonwoven (Figures 1 and 2 and Column 1, lines 5-23 and Column 2, lines 38-52 and 66-68 and Column 3, lines 1-58).

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gardener et al. (or Gardener et al. and Lou as applied to claims 21-24 above) in view of Ambrosch (DE 19908465 and the English abstract).

Gardener et al. is described above in full detail. It is noted that Gardener et al. disclose a composite comprising two nonwovens and an extruded film and a composite comprising a nonwoven, reinforcing grid, and extruded film, in the event it is seen Gardener et al. do not specifically disclose a composite comprising two nonwovens, a reinforcing grid, and an extruded film the following rejection applies. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the composite taught by Gardener et al. comprising two nonwovens and an extruded film a reinforcing grid to increase the durability of the composite as was well known in the art and shown for example by Ambrosch, it being noted Gardener et al. specifically note a reinforcing grid can be included to increase the durability of the composite.

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Ambrosch is exemplary in the art of a breathable roofing underlayment formed of a base nonwoven, adhesive film, and a strength providing reinforcing grid (See the English abstract).

***Response to Arguments***

8. Applicant's arguments with respect to claims 21-25 have been considered but are moot in view of the new ground(s) of rejection. In view of applicants amendment the previous rejections over Lou (U.S. Patent 4,684,568) and Corovin (DE 29801953) are withdrawn. New rejections addressing the new limitations are made above.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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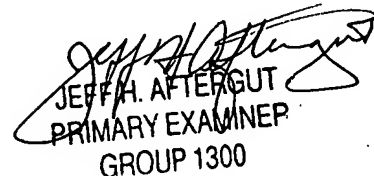
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is (571) 272-1216. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John L. Goff



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